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Attorneys for Defendants
Sunrise Mountain View Hospital, Inc., d/b/a
Mountain View Hospital, Neal Millot and Christopher Simms

UNITED STATES DISTRICT COURT

STATE OF NEVADA

JOYCE ZAIC,

Plaintiffs,

vs.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, a political subdivision of
the STATE OF NEVADA; DANIELLE
PIEPER, individually; B. EAGER, P#6189,
individually and in his official capacity as a
police officer; T. FREDERICK, P#9793,
individually and in his office capacity as a
police officer; SUNRISE MOUNTAINVIEW
HOSPITAL, INC.; NEAL, security guard for
MOUNTAINVIEW HOSPITAL;
CHRISTOPHER SIMMS, security guard for
MOUNTAINVIEW HOSPITAL; JOHN
DOES I through X, and ROE
CORPORATIONS I through X, inclusive,

Defendants.

CASE NO. 2:10-cv-01814-PMP-LRL

DEFENDANTS' MOTION TO DISMISS AND FOR PARTIAL SUMMARY JUDGMENT

...

...

Defendants, by and through their attorneys of record, the law firm of HALL PRANGLE & SCHOONVELD, LLC, hereby files this Motion to Dismiss and for Partial Summary Judgment pursuant to FRCP 12(b)(5) and FRCP 56.

This Motion is made and based upon the pleadings, the Memorandum of Points and Authorities that follows, and any oral argument of counsel that may be heard at the time of hearing of this motion.

DATED this 18th day of November, 2010.

HALL PRANGLE & SCHOONVELD, LLC

By: /s/: Casey W. Tyler, Esq.

MICHAEL E. PRANGLE, ESQ.

Nevada Bar No.: 8619

CASEY W. TYLER, ESQ.

Nevada Bar No. 9706

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Attorneys for Defendants

Sunrise Mountain View Hospital, Inc., d/b/a

Mountain View Hospital, Neal Millot and Christopher Simms

MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION

The foregoing motion asks for the following relief:

1. Dismissal as to Defendants, Sunrise Mountain View Hospital, Inc., d/b/a Mountain View Hospital, Neal Millot and Christopher Simms with regard Plaintiff's malicious prosecution cause of action;

2. Dismissal as to Defendants, Sunrise Mountain View Hospital, Inc., d/b/a Mountain View Hospital, Neal Millot and Christopher Simms with regard Plaintiff's False Imprisonment cause of action; and
3. Dismissal as to Defendants, Sunrise Mountain View Hospital, Inc., d/b/a Mountain View Hospital, Neal Millot and Christopher Simms with regard Plaintiff's battery cause of action.

As the argument below shows, there are not sufficient allegations to support Plaintiff's Malicious Prosecution, False Imprisonment, or Battery causes of action against Defendants, Sunrise Mountain View Hospital, Inc., d/b/a Mountain View Hospital, Neal Millot and Christopher Simms. The Defendants motion should be granted in its entirety.

II.

STATEMENT OF FACTS

This matter arises from an incident that allegedly occurred on March 21, 2008, involving Plaintiff Joyce Zaic (hereinafter Plaintiff), her brother Steve Zaic, and Defendants, Sunrise Mountain View Hospital, Inc., d/b/a Mountain View Hospital, Neal Millot and Christopher Simms (hereinafter Defendants) at Mountain View Hospital in Las Vegas, Nevada where her father was in the intensive care unit.

On several occasions leading up to the subject incident, Plaintiff was involved in numerous arguments with Defendants' staff and displayed several instances of erratic behavior. The first of such events occurred on March 5, 2008, where Plaintiff became upset and began yelling at Defendants' staff and security was notified. See Patient notes dated March 5, 2008, hereinafter Exhibit "A", intentionally left blank but available for this Courts review at hearing due to HIPPA concerns. Two days later, Plaintiff was accused of "Larceny from Person", when

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1 she allegedly stole a cell phone from her brother and refused to return it. See Incident report
2 dated March 7, 2008, hereinafter Exhibit "B". Then on March 9, 2008, Plaintiff refused to leave
3 her father's room and was instructed that she would have to leave the hospital if she could not
4 follow instructions from the hospital staff. See Patient notes dated March 9, 2008, hereinafter
5 Exhibit "C", intentionally left blank but available for this Courts review at hearing due to HIPPA
6 concerns. The behavior became so outrageous that the nursing staff was forced to limit
7 Plaintiff's visiting hours and only allow her to visit for 5 minutes at a time. See correspondence
8 dated March 12, 2008, hereinafter Exhibit "D". Less than one week later, Plaintiff was again
9 yelling at the nursing staff so loudly that it was heard by other visitors of the hospital. See
10 Patient notes dated March 15, 2008, hereinafter Exhibit "E", intentionally left blank but available
11 for this Courts review at hearing due to HIPPA concerns. Plaintiff was again escorted out of
12 the building on March 17, 2008. See Risk Management Report dated March 17, 2008,
13 hereinafter Exhibit "F". Finally, Plaintiff was formally trespassed by Metro Police and banned
14 from the hospital. In the event Plaintiff returned, the staff was advised not to confront Plaintiff
15 and to call the police immediately. See correspondence dated March 18, 2008, hereinafter
16 Exhibit "G".
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20 On the date in question, Plaintiff was visiting her father Frank Zaic, who was being
21 treated at Mountain View. Her brother Steven Zaic and his girlfriend, Defendant Danielle Pieper
22 (hereinafter Pieper), were there as well. According to Plaintiff's complaint, Plaintiff demanded
23 that Pieper leave the room in accordance with a standing order that only family members be
24 present in the ICU. See Plaintiff's Amended Complaint, Hereinafter Exhibit "H". Plaintiff and
25 Piper began to argue at which point, Plaintiff and Steven Zaic allegedly became involved in a
26 physical altercation requiring security to become involved. *Id.* According to Plaintiff, she began
27
28

1 to leave the hospital; however, due to the many previous instances involving Plaintiff, discussed
 2 above, Defendants followed Plaintiff to ensure that she left the building. In fact, Plaintiff never
 3 alleges that Defendants made any physical contact with her only that they followed closely
 4 behind her. *Id.* Plaintiff, instead of leaving the premises, returned to the ICU. *Id.* Defendants
 5 then called the police to report the incident. Upon arrival, the police arrested Plaintiff and
 6 transported her to the Clark County Detention Center. *Id.*

8 Based upon the foregoing, Plaintiff filed an Amended Complaint on May 11, 2010,
 9 against Defendants, Sunrise Mountain View Hospital, Inc., d/b/a Mountain View Hospital, Neal
 10 Millot and Christopher Simms alleging Malicious Prosecution, False Imprisonment and Battery
 11 among other causes of action. Defendants now bring the instant Motion to Dismiss.

13 III.

14 ARGUMENT

15 A. Dismissal/Summary Judgment is appropriate for a portion of Plaintiff's claims 16 against Defendants.

18 1. **Standard of review.**

19 The purpose of the summary judgment procedure is to obviate trials when they would
 20 serve no useful purpose. Short v. Riviera, Inc. 79 Nev. 94, 378 P.2d 979 (1963); Corey v. Hom
 21 80 Nev. 39, 389 P.2d 76 (1964). It does not involve resolution of factual issues, but seeks to
 22 discover if any real issue of fact exists. Daugherty v. Wabash Life Insurance Co. 87 Nev. 32,
 23 482 P.2d 814 (1971). Summary judgment proceedings pierce the formality of the pleadings and
 24 test whether, based on the uncontroverted facts, one party is entitled to judgment as a matter of
 25 law. Dredge Corp. v. Husite Co. 78 Nev. 69, 369 P.2d 676 *cert. denied* 371 U.S. 821 (1962);
 26 Matsushita Electric Industrial Co. v. Zenith Radio Corp. 475 U.S. 574 (1986). A party seeking
 27
 28

summary judgment must satisfy two (2) substantive requirements: (1) There must be no genuine issue as to any material fact; and (2) The moving party must be entitled to judgment as a matter of law. Anderson v. Liberty Lobby, Inc. 477 U.S. 242, 247 (1985). A material fact is one which will affect the outcome of the action. Id. at 248.

2. A cause of action for malicious prosecution must be brought against the state and is not tenable against any of the named Defendants.

The Plaintiff's cause of action for malicious prosecution has no support under Nevada law. If MountainView instituted its own civil suit against Plaintiff, there perhaps would be sufficient factual questions so as to survive summary judgment. In the instant case, however, the Plaintiff's prosecution was instituted by the city, which is not a party and which would likely be immune from such cause of action.

Almost always, a malicious prosecution plaintiff is the defendant in a civil action. However, there are circumstances in which a party that was not named in the underlying proceeding may sue for malicious prosecution. For example, a person may bring a malicious prosecution claim against an attorney who initiated an incompetency proceeding, even though that person was not named in the proceeding, presumably for his own good. Laird v. Potter, 367 So. 2d 642 (Fla. Dist. Ct. App. 3d Dist. 1979). An infant who was the subject of an adoption proceeding may bring a malicious prosecution suit, despite the fact that she was not named in the official record of the proceeding. Rushing v. Bosse, 652 So. 2d 869 (Fla. Dist. Ct. App. 4th Dist. 1995).

The right to bring a malicious prosecution claim is personal to the individual injured by the underlying proceeding. Hart v. O'Malley, 544 Pa. 315, 676 A.2d 222 (1996). Spouses and parents of those injured by malicious proceedings are not permitted to recover separately from the individual actually harmed. Hart v. O'Malley, 544 Pa. 315, 676 A.2d 222 (1996). Thus, relatives who pursue a suit on an infant's behalf may not bring separate actions in their own names. Rushing v. Bosse, 652 So. 2d 869 (Fla. Dist. Ct. App. 4th Dist. 1995).

32 Causes of Action 2d 131 (Originally published in 2006).

In a situation such as that presented, Nevada law contemplates that the proper party for a malicious prosecution action is the city, not any of the moving Defendants.

1 The following elements must be satisfied to establish a prima facie case of
2 malicious prosecution: (1) want of probable cause to initiate the prior criminal
3 proceeding; (2) malice; (3) termination of the prior criminal proceedings; and (4)
4 damage. *Chapman v. City of Reno*, 85 Nev. 365, 369, 455 P.2d 618, 620 (1969).

5 Want of probable cause is judged by an objective test as set forth by the
6 California Supreme Court in *Sheldon Appel Co. v. Albert & Olier*, 47 Cal.3d
7 863, 254 Cal.Rptr. 336, 765 P.2d 498, 511 (1989); see also *Dutt v. Kremp*, 111
8 Nev. 567, 573, 894 P.2d 354, 358 (1995). Under this test, it is for the court to
9 decide whether a reasonable attorney would have considered the prior action
10 legally tenable-ignoring any subjective factors such as the attorney's expertise and
11 belief. *Dutt*, 111 Nev. 567 at 573-74, 894 P.2d at 358.

12 In addition to being improper parties to such a cause of action, in instances where the
13 person bringing the malicious prosecution claim was trespassing on the Defendants property
14 probable cause has been found to exist for such prosecution regardless.

15 In light of our finding that an easement by prescription did not exist as to the route
16 running by his home from the access road to the sand trap, it follows that Jordan,
17 at least technically, had probable cause to charge Bailey with trespass. (Our
18 finding compels the conclusion that Bailey had no right to walk across the Jordan
19 property near the Jordan home.) Further, even if we were to uphold the easement,
20 the lack of any prior record of it and the fact that the easement had not been
21 judicially recognized as of the alleged trespass incident would satisfy the probable
22 cause requirement.

23 Under the objective standard articulated in *Sheldon Appeal*, we hold that a
24 reasonable attorney would have found legally tenable grounds to charge Bailey
25 with criminal trespass. Accordingly, we conclude that the district court erred in
26 finding that Jordan was liable for malicious prosecution of Bailey.

27 Jordan v. Bailey 113 Nev. 1038, 1047-1048, 944 P.2d 828, 834 - 835 (1997).

28 Plaintiff's allegations do not support a claim for Malicious Prosecution against the
Defendants. First, based upon Plaintiff's continuous and outrageous behavior, she was reported
to the police and banned from the facility on March 18, 2008, three days before the subject
incident. Exhibit G. Similarly to *Jordan*, Defendants had probable cause to charge Plaintiff with
Trespass, therefore satisfying the probable cause requirement. Moreover, Defendants clearly
lacked any malice in reporting Plaintiff to the police. In fact, Defendants gave Plaintiff

1 numerous opportunities to follow the hospital's policies and act in a reasonable manner. As
2 stated above, Plaintiff had disrupted visitors of the hospital and was abusive to the staff on
3 numerous occasions. Defendants attempted to deal with the problem by altering Plaintiff's
4 visiting hours and asking her to cooperate with the staff. After her apparent refusal to do so, they
5 were forced to notify authorities. There was no malice in their actions, and Plaintiff's actions
6 were detrimental to their patients and visitors. There is no basis for this cause of action and
7 summary judgment is appropriate as a matter of law.
8

9 **3. Plaintiff's cause of action for false imprisonment must be dismissed because**
10 **Defendants had probable cause.**

11 "False imprisonment is a restraint of one's liberty without any sufficient cause therefore".
12 Lerner Shops of Nev., Inc. v. Marin, 83 Nev. 75, 423 P.2d 398 (1967). However, it is well
13 established that one may detain a person where probable cause exists to do so, so long as the
14 detention is reasonable. See, Collyer v. S.H. Kress & Co., 5 Cal.2d 175, 180-181, 54 P.2d 20
15 (1936) (Merchants who detain individuals whom they have probable cause to believe are about
16 to injure their property are privileged against a false imprisonment action.), *Id.* (Where a
17 defendant had probable cause to believe that the plaintiff was about to injure defendant in his
18 person or property, even though such injury would constitute but a misdemeanor, that probable
19 cause is a defense, provided, of course, that the detention was reasonable.). "What is probable
20 cause, as has been often announced, is not a question of fact for the jury, but one of law for the
21 court, to be decided in accordance with the circumstances at the time of the detention,
22 unhampered by the outcome of the charge against the plaintiff of the public offense or by the
23 conclusions of the trial court." Davis v. Pacific Tel., etc., Co., 127 Cal. 312, 320, 57 P. 764, 59
24 P. 698; Mackie v. Ambassador Hotel, etc., Corporation, 123 Cal.App. 215, 11 P.(2d) 3; Allen v.
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1 McCoy, 135 Cal.App. 500, 27 P.(2d) 423, 28 P.(2d) 56; Van Fleet v. West American Ins. Co., 5
2 Cal.App.(2d) 125, 42 P.(2d) 378, 43 P.(2d) 557.

3 Even assuming Plaintiff's allegation that Defendants would not let her leave the ICU, her
4 claims do not support the cause of action for False Imprisonment. Plaintiff was a trespasser on
5 the property. She had been removed from the premises on prior occasions and was given a
6 trespass card from the police prior to the subject action. Even if she were allowed on the
7 premises on the date in question, she clearly became a trespasser at the point she was yelling and
8 involved herself in a physical altercation. This provided Defendants with probable cause to
9 detain Plaintiff until the police could arrive and safely remove her from the property.
10

11 Additionally, if Defendants did in fact prevent Plaintiff from leaving, the detention was
12 clearly reasonable. Plaintiff had a long history of disturbing other visitors, yelling and becoming
13 belligerent with staff, and refusing to follow the policies of the hospital. On this occasion her
14 behavior escalated to the point that she was involved in a physical altercation. Defendants were
15 justified in detaining Plaintiff until police could arrive to safely escort her from the hospital.
16

17 Defendants' Motion to Dismiss the claim of False Imprisonment should also be granted.
18

19 **4. Plaintiff's cause of action for battery must be dismissed because Defendants**
20 **made no contact with Plaintiff.**

21 NRS 200.400(a) defines battery as any willful and unlawful use of force or violence upon
22 the person of another. Thus, to sustain a claim for Battery, defendant must have caused a
23 physical touching upon Plaintiff. In the instant case, Plaintiff never alleges that Defendants
24 made any contact with her or used force of any kind. Plaintiff states that Defendants "followed
25 closely behind Plaintiff to the elevator and began banging their handcuffs in their hands..."
26

27 Exhibit H. "Defendant security officers followed plaintiff back to her room..." *Id.* Throughout
28

1 Plaintiff's complaint, it is clear that she never alleges that Defendants made contact with her. In
2 fact, Defendants were under orders to not make contact with her but to instead notify the police,
3 which is exactly what they did. Based upon the lack of any physical contact upon Plaintiff,
4 Defendants' Motion to Dismiss Plaintiff's allegation of Battery should be granted.

5
6 IV.

7 **CONCLUSION**

8 Defendants ask that the claims for Malicious Prosecution, False Imprisonment and
9 Battery be granted as shown necessary by the arguments made herein above.

10 DATED this 18th day of November, 2010.

11 HALL PRANGLE & SCHOONVELD, LLC

12
13 By: /s/: Casey W. Tyler, Esq.

14 MICHAEL E. PRANGLE, ESQ.

15 Nevada Bar No.: 8619

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CERTIFICATE OF MAILING

I HEREBY CERTIFY that I am an employee of HALL PRANGLE & SCHOONVELD;
that service of the foregoing **DEFENDANTS' MOTION TO DISMISS AND FOR PARTIAL
SUMMARY JUDGMENT** was made on the 18th day of November, 2010 via U.S. Mail, first
class postage pre-paid to the following parties at their last known address:

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An employee of HALL PRANGLE & SCHOONVELD, LLC

4824-5827-0983, v. 1

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EXHIBIT A

EXHIBIT A

EXHIBIT B

EXHIBIT B

MVH00002

Page 1 of 2

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT

Event #

080307-2400

THIS PORTION TO BE COMPLETED BY OFFICER

Specific Crime LARCENY FROM PERSON	Date Occurred 3/7/08	Time Occurred 3:50
Location of Occurrence 3100 NO. TENAYA WY LV, NV 89128 ICU	Sector/Beat 110	<input checked="" type="checkbox"/> City <input type="checkbox"/> County

Your Name (Last / First / Middle) ZAIC STEVE FRANK						Date of Birth 2/16/64		Social Security # [REDACTED]	
Race W	Sex M	Height 6-01	Weight 192	Hair BRN	Eyes HAZ	Work Sched. (Hours) RETIRED	(Days Off)	Business / School	
Residence Address: (Number & Street) 8625 HIGHLAND VIEW AVE			Bldg./Apt.# LV		City NV		State 89145		Zip Code
Bus. (Local) Address: (Number & Street)			Bldg./Apt.#		City		State		Zip Code
Best place to contact you during the day RESIDENCE			Best time to contact you during the day ANY			Can You Identify the Suspect? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			

DETAILS ON 3/7/08 BETWEEN 3:15 PM AND 3:45 PM MY SISTER JOYCE ZAIC, AND I WERE VISITING WITH OUR DAD, FRANK ZAIC, WHO IS IN ICU ROOM 208. OUR DAD IS RESTING/WAITING TO HAVE BY-PASS SURGERY.

I USED MY CELL PHONE SEVERAL TIMES WHILE IN THE ROOM WITH MY DAD. AFTER USING MY PHONE I RETURNED IT TO THE^{RT} SIDE POCKET OF MY CARPENTER PANTS, THE POCKET IS VERY BAGGY.

AT ABOUT 3:45 PM JOYCE AND I LEFT ROOM 208. AT WHICH TIME I STOPPED TO TALK TO DAD'S ASSIGNED RN, ALICE. JOYCE CONTINUED TO WALK BY, WHICH WAS VERY UNUSUAL BECAUSE SHE WOULD ALWAYS STOP TO LISTEN IN.

AT ABOUT 3:50, I REACHED DOWN FOR MY CELL PHONE AND NOTICED IT WAS MISSING. ALICE STATED THAT WHEN JOYCE WALKED BY SHE HAD A SILVER CELL PHONE IN HER HAND WHICH WAS IDENTICAL TO THE ONE I HAVE.

I HAVE READ THIS STATEMENT AND I AFFIRM TO THE TRUTH AND ACCURACY OF THE FACTS CONTAINED HEREIN. THIS STATEMENT WAS COMPLETED AT (LOCATION) **3100 NO. TENAYA LV, NV 89128** ON THE **7** DAY OF **MARCH** AT **5:45** (AM / ☒ PM)

Witness/Officer:

 (SIGNATURE)

Witness/Officer:

D. SALGADO
(PRINTED)

P#

8464

LVMPD 88 (REV. 5-00)

SIGNATURE OF PERSON GIVING STATEMENT

MVH00003

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT CONTINUATIONPage 2 of 2

Event #: _____

ALICE ALSO STATED THAT SHE WAS TOLD BY JOYCE THAT SHE DOESN'T HAVE A CELL PHONE AND THAT WAS THE FIRST TIME SHE SAW HER WITH A CELL PHONE.

I SUBSEQUENTLY CALLED MY CELL NUMBER 277-1279 AND JOYCE ANSWERED. I ASKED JOYCE TO BRING BACK MY CELL PHONE, SHE STATED BY YELLING THAT SHE WAS GOING TO DESTROY IT BECAUSE I WAS TRYING TO GET POWER OF ATTORNEY FOR MY DAD TO GET HIS MEDICAL RECORDS AND TO MAKE MEDICAL DECISIONS FOR HIM. I TOLD HER THAT I DIDN'T HAVE POWER OF ATTORNEY AND DAD WAS MAKING ALL HIS OWN DECISIONS. SHE STATED BY YELLING THAT SHE WAS NOT GOING TO RETURN THE PHONE AND WAS GOING TO DESTROY IT.

I EXPLAINED TO HER THAT MY CELL PHONE HAS ALL MY CONTACTS IN IT FOR MY TWO BUSINESSES AND IT WAS EXTREMELY IMPORTANT TO ME TO GET MY PHONE BACK. SHE REFUSED TO BRING IT BACK.

I TOLD HER THAT IF SHE DIDN'T BRING IT BACK I WAS GOING TO CALL THE POLICE. SHE STATED SHE WAS GOING TO CALL THE POLICE TOO.

I THEN CALLED LVMPD AND FILED A REPORT FOR LARCENY FROM PERSON. JOYCE WAS LSW LIGHT COLORED TOP, JEANS, AND WHITE OPEN TOE SHOES.

Witness: _____

JS 8464

[Signature]

SIGNATURE OF PERSON GIVING STATEMENT

MVH00004

Page 4 of 4

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
INCIDENT REPORT

Event #

080307-2400

SEE COLOR LIST ON P. 1A

CLOTHING COLOR

Headwear	
Coat	
Shirt	
Pants	
Shorts	
Skirt	
Shoes	

BUILD

1 Thin	
2 Medium	
3 Heavy	
4 Muscular	

HANDEDNESS

1 Left	
2 Right	

HAIR LENGTH

1 Over Ears	
2 Short	
3 Bald/Shaved	
4 Balding	
5 Varied Length	
6 Shoulder Length	
99 Other	

HAIR STYLE

1 Afro	
2 Curly	
3 Jerri Curls	
4 Straight	
5 Braided	
6 Thin	
7 Ponytail	
8 Flat Top	
9 Shaved Design	
99 Other	

FACIAL HAIR

1 Clean Shaven	
2 Unshaven	
3 Full Beard	
4 Goatee	
5 Moustache	
6 Sideburns	
99 Other	

SPEECH MANNER

1 Not Heard	
2 Not Unusual	
3 Apologetic	
4 Articulate	
5 Bad Grammar	
6 Polite	
7 Profane/Abusive	
99 Other	

SPEECH CHARACTERISTICS

1 Accent	
2 Stutter	
3 Lisp	
4 Sturred	
5 Loud	
6 Soft	
7 Slow	
8 Rapid	
9 Not Unusual	
99 Other	

APPEARANCE

1 Stocking Mask	
2 Ski Mask	
3 Bandana Mask	
4 Costume Mask	
5 Facial Disguise	
6 Ragged/Transient	
7 Business Clothes	
8 Casual Clothes	
9 Uniform	
10 Coat/Jacket	
11 Dressed as Opp. Sex	
12 Distinctive Jewelry	
99 Other	

TEETH

1 Normal	
2 Missing/Gaps	
3 Protrude/Overbite	
4 Decayed	
5 Crooked	
6 Broken	
7 Gold Design/Cap	
8 Silver Design/Cap	
9 Braces	
99 Other	

EYES

1 Normal	
2 Crossed	
3 Small	
4 Large	
5 Afflicted Eye	
6 Glasses	
7 Contact Lenses	
8 Different Colors	
99 Other	

COMPLEXION

1 Fair	
2 Medium	
3 Dark	
4 Suntanned	
5 Acne	
6 Pock Marks	
7 Freckled	
99 Other	

INJURY/CONDITION

1 None Observed	
2 Cast	
3 Crutches	
4 Cane	
5 Limping	
6 Bandages	
7 Bleeding/Blood Stains	
8 Appeared Sick	
9 Appeared Intoxicated/UIS	
99 Other	

TATTOOS (describe in narrative)

1 Name	
2 Initials	
3 Words	
4 Picture	
5 Number/s	
6 Symbol/s	

SCARS / MARKS / TATTOOS & INJURIES (Location Identifiers)

S = Scar M = Mark T = Tattoo I = Injury

1 None Observed	
2 Head	
3 Left Cheek	
4 Right Cheek	
5 Chin	
6 Forehead	
7 Lip	
8 Nose	
9 Left Ear	
10 Right Ear	
11 Eyebrow/Eyes	
12 Neck	
13 Left Upper Arm	
14 Right Upper Arm	
15 Left Forearm	
16 Right Forearm	
17 Left Hand	
18 Right Hand	
19 Finger(s)	
20 Chest	
21 Back	
22 Left Leg	
23 Right Leg	
99 Other	

PRIMARY MEANS OF ATTACK

1 Handgun	
2 Shotgun	
3 Rifle	
4 Simulated Gun	
5 Unknown Gun	
6 Strongarm	
7 Threats	
8 Drugs/Poison	
9 Knife	
10 Explosives	
11 Vehicle	
12 Club/Tire Iron	
13 Blunt Object	
14 Fire/Incendiary Devices	
99 Other	

WEAPON FEATURES

1 Chrome/Nickel/Stainless	
2 Blue Steel	
3 Distinctive Grips	
4 Automatic	
5 Revolver	
6 Large Frame	
7 Small Frame	
8 Short Barrel	
9 Long Barrel	
10 Double Barrel	
11 Over/Under	
12 Sawed Off	
13 Bolt Action	
14 Lever Action	
15 Pump Action	
99 Other	

(Make/Model/etc.)

LIST THE PERSON MISSING IN THE SPACE PROVIDED BELOW

<input type="checkbox"/> Adult	CHECK ONE <input type="checkbox"/> Voluntary <input type="checkbox"/> Involuntary <input type="checkbox"/> Unknown	Missing Y <input type="checkbox"/> N	Last Seen by Whom?	Last Seen with Whom?
<input type="checkbox"/> Juvenile	CHECK ONE <input type="checkbox"/> Abducted by Stranger <input type="checkbox"/> Voluntary <input type="checkbox"/> Abducted by Parent <input type="checkbox"/> Cause Unknown	Where Last Seen?	Date	Time
How Long at Present Address?	Previous Address (Number & Street)	Bldg./Apt.# City	State	Zip Code
Last Seen Wearing	Description of Jewelry	Scars, Tattoos, Teeth Info, etc.		
Blood Type	Fingerprints Available? Y N	Footprints Available? Y N	Body X-Rays? F P N	Dental Records? Y N
Cust. Parent / Lgt. Guardian (if juv.) - Relative (if adult)	Relationship	Medical Info (medicines used, etc.)	Corrected Vision? Y N	Circumcision? Y N N/A
Address (Number & Street)	Bldg./Apt.# City / State / Zip	Res. Phone:	Work Schdl. (Hrs / Days Off)	
Parent / Legal Guardian (if juvenile) - Relative (if adult)	Relationship	Address (Number & Street)	Bldg./Apt.# City / State / Zip	Bus. Phone:
Year Make	Brand (model)	Hull Identification # (HIN)	State Registration #	State / Year Reg.
VESEL TYPE <input type="checkbox"/> Runabout <input type="checkbox"/> Canoe <input type="checkbox"/> Cruiser <input type="checkbox"/> Housbl <input type="checkbox"/> Jet Ski <input type="checkbox"/> Other	HULL MATERIAL <input type="checkbox"/> Wood <input type="checkbox"/> Metal <input type="checkbox"/> Fiberglass <input type="checkbox"/> Rubber <input type="checkbox"/> Other	TYPE PROPULSION <input type="checkbox"/> Outboard <input type="checkbox"/> Inboard <input type="checkbox"/> Oars/Pad <input type="checkbox"/> Jet <input type="checkbox"/> InvOut <input type="checkbox"/> Sail	Boat Length	Boat Color Primary Secondary
Engine Serial #	Propulsion Serial #	Value	Marks of Identification	
Year	Trailer Brand	Trailer License #	State	Year
Trailer VIN #	Value	Style	Trailer Length	# of Axles
Trailer Color		Primary	Secondary	
Marks of Identification				

SUSPECT DESCRIPTION

MISSING PERSON

BOAT & TRAILER

MVH00005

Page 1 of 1

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT

Event #

080307-2400

THIS PORTION TO BE COMPLETED BY OFFICER

Specific Crime

LARCENY FROM PERSON

Location of Occurrence

3100 N TENAY

Date Occurred

3-7-08

Time Occurred

1515

Sector/Beat

V6

☒ City☐ County

Your Name (Last / First / Middle)

PERROTTI Alice G.

Date of Birth

2/3/57

Social Security #

Race

Sex

Height

Weight

Hair

Eyes

Work Schedl. (Hours)

(Days Off)

Business / School

Residence Address: (Number & Street)

Bldg./Apt.# City

State Zip Code

Res. Phone: 255-5002

Bus. (Local) Address: (Number & Street)

Bldg./Apt.# City

State Zip Code

Bus. Phone:

Occupation

Depart Date (if visitor)

Best place to contact you during the day

Mountain View Hosp.

Best time to contact you during the day

7:00 AM - 7:00 PM

Can You Identify the Suspect? ☒ Yes ☐ No

DETAILS Saw sister Joyce Zaic with Steve Zaic phone in her hand when they left their dad's room. 208 I was told by Joyce Zaic she does not have a cell phone (cell phone silver seen in right hand of Joyce Zaic when she was leaving the unit)

I HAVE READ THIS STATEMENT AND I AFFIRM TO THE TRUTH AND ACCURACY OF THE FACTS CONTAINED HEREIN. THIS STATEMENT WAS COMPLETED AT (LOCATION) Mountain View Hosp 3CU I

ON THE 7 DAY OF March AT 5:30 (AM) (PM)

Witness/Officer:

(SIGNATURE)

Witness/Officer:

D. SALGADO

LVMPD 86 (REV. 5-00)

(PRINTED)

P# 04164

Alice G. Perrotti

SIGNATURE OF PERSON GIVING STATEMENT

EXHIBIT C

EXHIBIT C

EXHIBIT D

EXHIBIT D

For: Wed Mar 12, 2008 11:19 am From: CHRISTOPHER SIMMS
Subject: Visitor Joyce Ziac in room #229 Taken by: CHRISTOPHER SIMMS ()

Visitor Joyce Ziac in room #229

We are again haveing problems with a visitor Joyce Ziac in ICU #3 room #229. Helen Vos and myself have come up with a temporary solution to this. Joyce will only be allowed in the hospital at 10:00am and 2:00pm for 5 minutes to visit her father. ICU nurses will call when she arrives and we will go stand by. If for any reason she begins to display hostility towards staff or does not stick to the 5 minute visitation, she will be trespassed and not be allowed in the hospital. This has been explained to Joyce. If you have any other problems such as she refuses to leave after being told to, Call Metro and have her trespassed.

Thanks Chris

SENT TO: #G.SECURITY

MVH00033

EXHIBIT E

EXHIBIT E

EXHIBIT F

EXHIBIT F

RUN DATE: 08/14/08 RUN TIME: 0738 RUN USER: GPT.KSK		Mountainview Hosp Quality Mgmt *LIVE* Risk Management Report - Non-Patient		PAGE 1																									
EVENT DESCRIPTION Trespass GENERAL LOC G.ICU3 NOTIF No. 2008-12827 NOTIF TYPE OTHER NP EVENT DT 03/17/08																													
Demographic/Event Information																													
<table style="width: 100%; border: none;"> <tr> <td style="width: 15%;">SITE</td> <td style="width: 15%;">COCMO</td> <td style="width: 35%;">MOUNTAINVIEW HOSPITAL</td> <td style="width: 15%;">CROID 32819</td> <td style="width: 20%;"></td> </tr> <tr> <td>ENTITY TYPE</td> <td>HOSPITAL</td> <td>HOSPITAL</td> <td>NOTIF No. 2008-12827</td> <td></td> </tr> <tr> <td>FACILITY</td> <td>COCMO</td> <td>Mountainview Hospital</td> <td></td> <td></td> </tr> <tr> <td>ADDRESS</td> <td>3100 N.Teyna</td> <td>CITY Las Vegas,</td> <td>STATE Nv</td> <td></td> </tr> <tr> <td></td> <td></td> <td>ZIP 89128</td> <td>PHONE (702)255-5000</td> <td></td> </tr> </table>					SITE	COCMO	MOUNTAINVIEW HOSPITAL	CROID 32819		ENTITY TYPE	HOSPITAL	HOSPITAL	NOTIF No. 2008-12827		FACILITY	COCMO	Mountainview Hospital			ADDRESS	3100 N.Teyna	CITY Las Vegas,	STATE Nv				ZIP 89128	PHONE (702)255-5000	
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IF OTHER EVENT CODE, EXPLAIN Trespass																													
PERSON AFFECTED																													
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NON-EMPLOYEE CATEGORY VISITOR	VISITOR																												
DESCRIPTION OF EVENT Trespass																													
EVENT DATE 03/17/08 TIME 1450 SHIFT DAY DAY 7A-330P																													
<table style="width: 100%; border: none;"> <tr> <td style="width: 45%;">EVENT LOCATION</td> <td style="width: 55%;">EXACT LOCATION</td> </tr> <tr> <td>G.ICU3 INTENSIVE CARE 3</td> <td>Room #229</td> </tr> </table>					EVENT LOCATION	EXACT LOCATION	G.ICU3 INTENSIVE CARE 3	Room #229																					
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G.ICU3 INTENSIVE CARE 3	Room #229																												
LOCATION COMMENTS Also in Main Lobby and West parking lot WAS A MEDICAL DEVICE INVOLVED? N																													
Description of Event/Comments																													
OBJECTIVE DESCRIPTION OF EVENT <p>On Monday March 17 2008 at 1450 hours I, Chris Simms, was contacted via telephone that visitor Joyce Zaic was causing a disturbance inside the unit yelling and screaming at the nursing staff. I advised Security Officer Maurice Daveu to respond to the location. On my arrival nursing staff told me that Maurice had already walked Zaic out of the Unit and was heading towards the elevator. When I arrived at the front elevators Zaic and Maurice</p>																													
RM CHANGE NOTIF TYPE																													

EXHIBIT G

EXHIBIT G

For:

Tue Mar 18, 2008 7:32 am

Subject: FYI

From: CHRISTOPHER SIMMS

Taken by: CHRISTOPHER SIMMS ()

FYI

Joyce Zaic the visitor that has been causing us so many problems has been formally trespassed from the property by Metro Police. Zaic is no longer allowed in the hospital. In the desk drawer on the right hand side is the original trespass card. If Zaic happens to show up do not confront her and call Metro and give the event number on the card to the dispatcher. If you have any questions contact me.

Thanks Chris

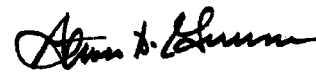
SENT TO: #G.SECURITY

MVH00034

EXHIBIT H

EXHIBIT H

Electronically Filed
05/11/2010 11:22:55 AM



CLERK OF THE COURT

1 **ACOM**
2 CAL J. POTTER, III, ESQ.
3 Nevada Bar No. 1988
4 JOHN C. FUNK, ESQ.
5 Nevada Bar No. 9255
6 POTTER LAW OFFICES
7 1125 Shadow Lane
8 Las Vegas, Nevada 89102
9 Ph: (702) 385-1954
10 Fax: (702) 385-9081
11 *Attorneys for Plaintiff*

7 **DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

9 JOYCE ZAIC,)	CASE NO.: A-10-312353
10 Plaintiff,)	DEPT. NO.: XXIV
11 v.)	
12 LAS VEGAS METROPOLITAN POLICE)	
13 DEPARTMENT a political subdivision of)	
14 the STATE OF NEVADA; DANIELLE)	
15 PIEPER, individually; B. EAGER, P#6189,)	
16 individually and in his official capacity as a)	
17 police officer; T. FREDERICK, P#9793,)	
18 individually and in his official capacity as a)	
19 police officer; SUNRISE)	
20 MOUNTAINVIEW HOSPITAL, INC.;)	
21 NEAL, security guard for MOUNTAIN)	
22 VIEW HOSPITAL; CHRISTOPHER)	
23 SIMMS, security guard for MOUNTAIN)	
24 VIEW HOSPITAL; JOHN DOES I through)	
25 X, and ROE CORPORATIONS I through X,)	
26 inclusive;)	
27 Defendants.)	

22 **AMENDED COMPLAINT**

23 COMES NOW plaintiff, JOYCE ZAIC, by and through her attorneys of record, CAL J.
24 POTTER, III, ESQ. and JOHN C. FUNK, ESQ., of the law firm of POTTER LAW OFFICES, and
25 for her causes of action against each of the defendants, alleges as follows:

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PARTIES

1
2 1. At all relevant times mentioned herein, plaintiff JOYCE ZAIC, was and is a resident
3 of Clark County in the State of Nevada.

4 2. Defendant, SUNRISE MOUNTAINVIEW HOSPITAL, INC. (MountainView), is
5 a corporation and at all times herein relevant was, a hospital pursuant to NRS 449, located at 3100
6 North Tenaya Way, conducting business in the County of Clark, City of Las Vegas, State of Nevada
7 whose agents, servants and employees were working and acting within the course of said
8 employment and agency relationship pursuant to Respondeat Superior.

9 3. Defendant, LAS VEGAS METROPOLITAN POLICE DEPARTMENT (hereinafter
10 referred to as "LVMPD"), is a political entity formed and operated pursuant to the Nevada Revised
11 Statutes and at all times relevant herein, employed defendant Police Officers B. EAGER, T.
12 FREDERICK and JOHN DOE I.

13 4. Defendant, DANIELLE PIEPER, is being sued in her individual capacity as a
14 resident of Clark County, Nevada.

15 5. Defendant Police Officers, EAGER, FREDERICK AND JOHN DOE I, are and were
16 at all times relevant to this Complaint, citizens of the United States of America, and residents of the
17 State of Nevada. They are sued in both their official capacities as police officers with the LVMPD
18 as well as in their individual capacities.

19 6. At all times relevant herein, and in all actions described herein, defendant police
20 Officers EAGER, FREDERICK AND JOHN DOE I were acting under the color of law and under
21 color of authority as police offices of the LVMPD.

22 7. Defendant NEAL, last name currently unknown, is and at all times relevant to this
23 Complaint a security guard for MountainView and was a resident of Clark County, Nevada and was
24 the agent, servant and employee of MountainView and was working and acting within the course
25 of said employment and agency relationship pursuant to respondeat superior.

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1 8. Defendant CHRISTOPHER SIMMS, is and at all times relevant to this Complaint
2 a security guard for MountainView and was a resident of Clark County, Nevada and was the agent,
3 servant and employee of MountainView and was working and acting within the course of said
4 employment and agency relationship pursuant to respondeat superior.

5 9. Defendant JOHN DOE II, is and at all times relevant to this Complaint a security
6 guard for MountainView and was a resident of Clark County, Nevada and was the agent, servant
7 and employee of MountainView and was working and acting within the course of said employment
8 and agency relationship pursuant to Respondeat Superior.

9 10. Defendant JOHN DOES III through X, are employees, nurses, medical staff and
10 administrative staff members at MountainView and have knowledge of the facts and circumstances
11 set forth in the Complaint herein below.

12 11. That the true names and capacities, whether individual, corporate, associate or
13 otherwise of the defendants herein designated as JOHN DOES I through X, and ROE
14 CORPORATIONS I through X, are unknown to plaintiff, who therefore sues said defendants by
15 such fictitious names. Plaintiff alleges that each named defendant herein designated as ROE or
16 DOE is negligently, wilfully, contractually or otherwise legally responsible for the events and
17 happenings herein referred to, and proximately cause injury and damages thereby to plaintiff, as
18 herein alleged. Plaintiff will ask leave of the court to amend this Complaint to insert the true names
19 and capacities of such defendants when same have been ascertained and will further ask leave to
20 join said defendants in these proceedings.

21 12. Plaintiff is informed and believes and, based upon such information and belief,
22 alleges that each of the defendants herein designated as JOHN DOES I through X, and ROE
23 CORPORATIONS I through X, inclusive is, in some manner, negligently, wilfully, contractually
24 or otherwise responsible for the events, happenings, occurrences and injuries sustained by Plaintiff
25 as alleged herein. Pursuant to NRCP 10(a) and Nurenberger Hercules-Werke GMBH v. Virotek,
26 107 Nev. 873, 822 P.2d 1100 (1991), the identity of defendants designated as JOHN DOES I
27 through X, and ROE CORPORATIONS I through X are unknown at the present time; however, it
28 is alleged and believed these Defendants were involved in the initiation, approval, support or

1 execution of the wrongful acts upon which this litigation is premised, or of similar actions directed
2 against plaintiff about which she is presently unaware which includes but is not limited to the
3 maintenance, installation, repairs and placement of a wood curtain rod and curtains inside of
4 plaintiff's rented room. As the specific identities of these parties are revealed through the course
5 of discovery, the DOE appellation will be replaced to identify these parties by their true names and
6 capacities. Reference herein to "defendant" shall mean "defendants, and each of them."

7 13. At all times herein mentioned, all of the defendants were the agents, servants and
8 employees of each and every other defendant and were working and acting within the course of said
9 employment and agency pursuant to respondeat superior.

10 **FACTS COMMON TO ALL CAUSES OF ACTION**

11 14. That on or about March 21, 2008, at approximately 8:00 p.m., the plaintiff was
12 legally and lawfully upon the premises of MountainView hospital located at 3100 North Tenaya
13 Way, Las Vegas, Nevada, visiting her father Frank Zaic, deceased, who was unconscious and in
14 critical condition in the Intensive Care Unit (ICU).

15 15. That during this time there was a standing medical order in place, and a note on the
16 door of Frank Zaic's, deceased, ICU unit 3, that stated only family members of Frank Zaic,
17 deceased, were allowed to enter the unit to visit and see Frank Zaic, deceased in the ICU;

18 16. On the above date and time while plaintiff was under extreme emotional distress
19 over her father's critical condition defendant DANIELLE PIEPER (PIEPER), who is not a family
20 member or related to Frank Zaic, deceased, or related to any members of the Zaic family, entered
21 the ICU unit with plaintiff's brother Steven Zaic, a retired LVMPD officer, at which time the
22 plaintiff advised defendant PIEPER of the standing order that only family members could be present
23 in the ICU with Frank Zaic, deceased, who was in critical condition.

24 17. Plaintiff asked defendant PIEPER to immediately leave the ICU room and informed
25 her that only family members were allowed but defendant PIEPER refused to leave or comply with
26 the instruction.

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1 18. That Defendant PIEPER, reasonably knew of the critical condition of Frank Zaic,
2 deceased, and when plaintiff again asked Defendant PIEPER to leave the ICU room PIEPER
3 refused and smirked/smiled at plaintiff.

4 19. Defendant repeatedly stated to PIEPER to leave and plaintiff raised her voice which
5 prompted plaintiff's brother to grab plaintiff and an altercation to develop between plaintiff and
6 her brother at which time plaintiff's brother placed plaintiff face down on the ground and hold her
7 there until hospital staff arrived and pulled plaintiff's brother off of him.

8 20. Plaintiff was in shock and was emotionally distraught and upset over not only her
9 father's condition but the actions of PIEPER failing to obey the instructions to leave that plaintiff
10 proceeded to gather her items to leave MountainView. As plaintiff was walking to the elevator
11 MountainView security officers NEAL and CHRISTOPHER SIMMS and JOHN DOE II, who had
12 previously harassed and handcuffed plaintiff, on a prior occasion, followed closely behind plaintiff
13 to the elevator and began banging their handcuffs in their hands causing plaintiff to fear for her
14 safety based upon the harassing conduct and the prior occurrence.

15 21. Plaintiff feared for her safety in being in the elevator alone with the defendant
16 security officers based upon their prior harassment so she proceeded back to her father's ICU room.

17 22. The defendant security officers followed plaintiff back to her room and prevented
18 plaintiff from leaving. At approximately 8:19 p.m. on March 21, 2008, plaintiff called 911 to report
19 the defendant security officers were harassing her and would not let her leave her father's ICU unit.
20 Plaintiff requested an officer be dispatched to assist her and escort her to her vehicle.

21 23. That prior to this encounter plaintiff was allowed to be on the defendants' property
22 and was allowed to be by the side of her ailing and fragile father.

23 24. That defendant JOHN DOE III, a female, whom is alleged to be a staff member
24 and/or employee of defendant MountainView, and one of the security officers also called 911 and
25 reported plaintiff was trespassing.

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1 25. LVMPD Officers B. EAGER, P#6189 and T. FREDERICK, P#9793 arrived at
2 MountainView and made contact with plaintiff and did not interview her or conduct an
3 investigation but immediately gave plaintiff a trespass card and escorted her outside where plaintiff
4 was instructed to wait.

5 26. The defendant officers met with defendant PIEPER and gave PIEPER paperwork
6 in order to do a citizen arrest on plaintiff.

7 27. That plaintiff was arrested and taken into custody and was transported and placed
8 into the Clark County Detention Center where she was released approximately 17 hours later.

9 28. After being released from the detention center plaintiff attempted to contact
10 MountainView hospital to find out the status of her fathers condition as she was afraid if she went
11 to the hospital she would be arrested.

12 29. Plaintiff was not informed that her father had died on March 23, 2008 as the
13 MountainView staff refused to provide her with any information even though she was identified as
14 the next of kin on her father's medical records.

15 30. Plaintiff was charged criminally for allegations set forth by defendant PIEPER. The
16 criminal case against plaintiff was dismissed.

17 **FIRST CAUSE OF ACTION:**

18 **VIOLATION OF CIVIL RIGHTS**

19 31. The plaintiff reaffirms, re-alleges and incorporates herein by reference, the
20 allegations contained in Paragraphs 1 through 30 of her Complaint as though fully set forth herein.

21 32. The defendant police officers had no warrant or probable cause for the arrest of the
22 plaintiff and had no legal cause or excuse to seize the person of the plaintiff.

23 33. At all times during the events described above, the defendant police officers were
24 engaged in a joint venture. The individual officers assisted each other in performing the various
25 actions described and lent their physical presence and support and the authority of their office to
26 each other during the said events.

27 34. As a direct and proximate result of the said acts of the defendant officers, the
28 plaintiff suffered the following injuries.

1 a. Violation of her constitutional rights under the Fourth and Fourteenth
2 Amendments of the United State Constitution to be free from an unreasonable search and seizure
3 of his person;

4 b. Loss of physical liberty;

5 c. Physical pain and suffering and emotional trauma and suffering, requiring the
6 expenditure of money for defense of the case and suffered emotional distress.

7 35. The actions of the defendant Officers violated the following clearly established and
8 well settled federal constitutional rights of plaintiff:

9 a. Freedom from the unreasonable seizure of his person; and

10 b. Freedom from the use of excessive, unreasonable and unjustified force
11 against her person.

12 36. The actions of defendant officers B. EAGER, P#6189, T. FREDERICK, P#9793
13 where taken pursuant to a de facto policy of defendant LVMPD which is implemented by police
14 officers of the said Department to summarily punish persons in an unlawful manner without
15 corroborating information and without rightful authority of law and by the use of excessive force.

16 37. The existence of this de facto policy described above has been known to supervisory
17 and policy-making officers and officials of defendant LVMPD for a substantial period of time.

18 38. Despite their knowledge of LVMPD'S illegal policy and practices, LVMPD'S
19 supervisory officers and policy making officers and officials, as a matter of policy, have not taken
20 steps to determine the said practices, have not disciplined or otherwise properly supervised the
21 individual officers who engaged in the said practices described above.

22 39. That by reason of the aforesaid actions, the plaintiff was arrested, incarcerated and
23 charged with Battery. As a result, plaintiff sustained severe emotional, psychological and physical
24 injuries, mental pain and suffering and emotional distress, all of which said conditions maybe
25 permanent or disabling in nature.

26 40. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff
27 experienced damages, for which she is entitled to recover, including emotional distress, medical
28 expenses, pain and suffering and is entitled to reasonable costs including but not limited to attorney

1 fees, all in excess of TEN THOUSAND DOLLARS (\$10,000).

2 41. These acts and others committed by the defendants deprived plaintiff of rights
3 secured to them, and each of them, by the Fourth and Fourteenth Amendments to the United States
4 constitution and were committed by each of the knowingly, willfully, and maliciously with the
5 intent to harm injure, vex, harass, and oppress the Plaintiffs. As a result, Plaintiffs seek punitive and
6 exemplary damages from the individual Defendants, and each of them, in an amount in excess of
7 TEN THOUSAND DOLLARS (\$10,000).

8 **SECOND CAUSE OF ACTION:**

9 **ASSAULT AND BATTERY**

10 42. The plaintiff reaffirms, re-alleges and incorporates herein by reference, the
11 allegations contained in Paragraphs 1 through 41 of this Complaint as though fully set forth herein.

12 43. At all times material and relevant herein, defendants B. EAGER, P#6189, T.
13 FREDERICK, P#9793 were sworn officers of defendant LVMPD.

14 44. The aforementioned actions of defendants against plaintiff were unreasonable and
15 without justification or excuse and constituted battery by placing plaintiff under arrest and
16 unlawfully handcuffing her against her will when defendants had not observed plaintiff engaged in
17 any criminal conduct.

18 45. At all time material and relevant herein defendant security officers were employed
19 by defendant MountainView, acting in the course and scope of their employment, and engaged in
20 conduct that threatened and caused plaintiff to fear she would be arrested or suffer physical harm
21 and/or injury by intimidating plaintiff and threatening to use handcuffs .

22 46. As a direct and proximate result of defendants' unlawful conduct, plaintiff
23 experienced damages and is entitled to compensation for her emotional distress, medical expenses,
24 pain and suffering, and other related costs including but not limited to attorney fees, in excess of
25 TEN THOUSAND DOLLARS (\$10,000).

26 ///

27 ///

28 ///

1 47. That the acts, conduct and behavior of defendant officers and defendant security
2 officers as individuals were performed knowingly, intentionally, oppressively and maliciously by
3 reason of which plaintiff is entitled to punitive damages in a sum in excess of TEN THOUSAND
4 DOLLARS (\$10,000).

5 **THIRD CAUSE OF ACTION:**

6 **NEGLIGENT AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

7 48. The plaintiff reaffirms, re-alleges and incorporates herein by reference, the
8 allegations contained in Paragraphs 1 through 47 of this Complaint as though fully set forth herein.

9 49. At all times material and relevant herein, defendant officers were acting within the
10 scope and their authority as agents and officers of defendant LVMPD.

11 50. At all times material and relevant herein, defendant security officers, nurses,
12 administrative and nursing staff were acting within the scope and their authority as agents and
13 employees of defendant MountainView.

14 51. At all times material and relevant herein, defendant PIEPER was acting in concert
15 with defendants.

16 52. By their acts and omissions, defendants and each of them, intentionally inflicted
17 emotional distress on plaintiff. These acts and omissions, which were calculated to unlawfully have
18 the plaintiff falsely imprisoned, arrested, incarcerated and prosecuted included but were not limited
19 to the following:

20 a. The acts performed by the defendant security officers and nursing staff to confine,
21 attempt to arrest, arrest and harass on at least two prior occasions. As a result, plaintiff was
22 deprived of her liberty, and was subjected to scorn, ridicule, and humiliation by those knowing of
23 their respective detentions all to plaintiff's damages in causing unnecessary emotional distress.

24 b. Defendant officer's intentional acts of failing to corroborate the aforementioned
25 accusations and conspiring with defendants to complete and fill out a Declaration for Citizen Arrest.
26 As result, Plaintiff was deprived of their liberty, and were subjected to scorn, ridicule, and
27 humiliation by those knowing of their respective detention all to plaintiff's damages in causing
28 unnecessary emotional distress.

1 c. Defendant PIEPER whose intentional acts were intended to harass, humiliate,
2 ridicule and scorn plaintiff by having her arrested and engaging in conduct to prosecute plaintiff for
3 a criminal act knowing that there was insufficient evidence to prove the elements of the criminal
4 charge but moving forward with the prosecution in a vindictive and vexatious manner requiring
5 plaintiff to incur legal fees to defend against the action which was dismissed causing plaintiff
6 unnecessary emotional distress.

7 53. As a direct and proximate cause of the conduct of the defendants and each of them
8 the plaintiffs suffered and will continue to suffer, severe emotional distress.

9 54. Plaintiff has received counseling and medical attention as a result of defendants
10 deliberate, malicious and willful conduct in falsely imprisoning her, arresting her, violating her civil
11 rights, and in their negligent conduct.

12 55. As a direct and proximate result of defendants' unlawful conduct, plaintiff
13 experienced damages and is entitled to compensation for her emotional distress, medical expenses,
14 pain and suffering, and other related costs including but not limited to attorney fees, in excess of
15 TEN THOUSAND DOLLARS (\$10,000).

16 56. The conduct of the defendants and each of them individually and in concert with one
17 another as herein alleged was willful, intentional, oppressive, fraudulent, malicious and done in a
18 wanton and reckless disregard of plaintiff's rights and thereby warrant the imposition of punitive
19 damages in excess of TEN THOUSAND DOLLARS (\$10,000).

20 **FOURTH CAUSE OF ACTION:**

21 **CIVIL CONSPIRACY**

22 57. The plaintiff reaffirms, re-alleges and incorporates herein by reference, the
23 allegations contained in Paragraphs 1 through 56 of this Complaint as though fully set forth herein.

24 58. At all times material and relevant herein, defendant officers were acting within the
25 scope of their authority as agents and officers of defendant LVMPD. Defendant security officers,
26 nurses, administrative staff were acting within the scope of their authority as agents and employees
27 of defendant MountainView.

28 59. That beginning at a time not later than March 21, 2008, defendant PIEPER,

1 defendant security officers and staff of MountainView hospital and defendant officers and others
2 combined, conspired, confederated, and agreed together and with each other to knowingly and
3 willfully engage in the following acts, among others to cause harm to plaintiff:

- 4 a. To violate Plaintiff's civil rights;
5 b. to cause plaintiff to be harassed and arrested;
6 c. to cause, or have plan to have caused, battery to plaintiff; and
7 d. to intentionally inflict emotional distress on Plaintiff and have her prosecuted
8 criminally.

9 60. That defendants' conduct was the proximate cause of the plaintiff's suffering and
10 damages.

11 61. That as a result of defendants' conspiracy plaintiff suffered severe emotional pain
12 and suffering in an amount in excess of TEN THOUSAND DOLLARS (\$10,000).

13 62. That Defendant's actions were deliberate, wilful and done with malice. The Plaintiffs
14 and each of them is therefore entitled to punitive damages in an amount to be proven at trial.

15 63. As a direct and proximate result of defendants' unlawful conduct, plaintiff
16 experienced damages and is entitled to compensation for her emotional distress, medical expenses,
17 pain and suffering, and other related costs including but not limited to attorney fees, in excess of
18 TEN THOUSAND DOLLARS (\$10,000).

19 64. The conduct of the defendants and each of them individually and in concert with one
20 another as herein alleged was willful, intentional, oppressive, fraudulent, malicious and done in a
21 wanton and reckless disregard of plaintiff's rights and thereby warrant the imposition of punitive
22 damages in excess of TEN THOUSAND DOLLARS (\$10,000).

23 **FIFTH CAUSE OF ACTION:**

24 **RESPONDEAT SUPERIOR**

25 65. The plaintiff reaffirms, re-alleges and incorporates herein by reference, the
26 allegations contained in Paragraphs 1 through 64 of this Complaint as though fully set forth herein.

27 66. That defendant LVMPD is liable for the tortious acts of defendant police Officers
28 EAGER, FREDERICK AND JOHN DOE I under the theory of Respondeat Superior.

1 67. That defendant MountainView is liable for the tortious acts of defendant
2 MountainView security officers NEAL and CHRISTOPHER SIMMS and JOHN DOE II, and
3 defendant nursing staff, administrative employees and agents of MountainView hospital under the
4 theory of Respondeat Superior.

5 68. That defendant STATE OF NEVADA is liable for the tortious acts of defendant
6 PIEPER committed in her official capacity as a deputy district attorney in their malicious
7 prosecution of plaintiff.

8 69. As a direct and proximate result of defendants' unlawful conduct, plaintiff
9 experienced damages and is entitled to compensation for her emotional distress, medical expenses,
10 pain and suffering, and other related costs including but not limited to attorney fees, in excess of
11 TEN THOUSAND DOLLARS (\$10,000).

12 **SIXTH CAUSE OF ACTION:**

13 **NEGLIGENCE, NEGLIGENT HIRING, TRAINING, AND SUPERVISION**

14 70. The plaintiff reaffirms, re-alleges and incorporates herein by reference, the
15 allegations contained in Paragraphs 1 through 69 of this Complaint as though fully set forth herein.

16 71. The LVMPD has a duty to protect civilians.

17 72. That defendant LVMPD breached this duty by:

18 a. Tolerating the practice or policy of its officers' use of unreasonable and unnecessary
19 excessive force against citizens as manifested by its failure to discipline police officers who use
20 excessive force and commit batteries when making unlawful arrests;

21 b. covering up incidents in which excessive forces, unlawful arrests, batteries are used
22 unnecessarily;

23 c. failing to properly screen applicants who apply to become police officers in the
24 department; and

25 d. failing to provide adequate training of its police officers.

26 73. That MountainView hospital provides care for patients and part of that care provides
27 for standing orders on visitation rights of patients and family members and that these rights are
28 protected.

74. That defendant MountainView breached this duty by:

a. Failing to screen visitors to plaintiff's father's ICU unit, failing to prevent defendant PIEPER from entering the ICU unit when there were orders posted on the door and in the plaintiff's father's medical charts forbidding anyone but family members to visit with the plaintiff's father;

b. Hiring and retaining security officers and staff and failing to properly train or discipline them on false imprisonment, harassment, wrongful arrest, trespass and engaging in general conduct that is meant to harass and be vexatious;

c. failing to properly screen applicants who apply to become security officers at the hospital; and

d. failing to provide adequate training to staff members and security officers.

75. As a direct and proximate result of Defendants unlawful conduct, Plaintiffs experienced damages and are entitled to compensation for their pain and suffering, emotional distress and other related costs including but not limited to attorney fees, in excess of TEN THOUSAND DOLLARS (\$10,000).

SEVENTH CAUSE OF ACTION:

UNLAWFUL ARREST AND FALSE IMPRISONMENT

76. The plaintiff reaffirms, re-alleges and incorporates herein by reference, the allegations contained in Paragraphs 1 through 75 of this Complaint as though fully set forth herein.

77. Defendants at all times herein mentioned were the agents and employees of their respective codefendants and in doing these things hereinafter alleged were acting within the course and scope of the agency and with the permission and consent of their codefendants.

78. On or about March 21, 2008, MountainView defendants forced plaintiff into her father's ICU unit, where plaintiff was forced to call 911 to assist her for a period of approximately 10-15 minutes and prohibited her from leaving until the police defendants arrived who seized plaintiff forcibly, against plaintiff's will, and without her consent and over her protest.

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1 79. Immediately prior to the acts of the defendants herein alleged, plaintiff had been on
2 the premises, upon which defendants had knowledge, and she was peacefully walking to the
3 elevator at MountainView hospital in Clark County Nevada. Plaintiff had not committed any crime
4 against defendant or anyone else, and defendant knew of plaintiff's innocence.

5 80. Despite having this knowledge MountainView and their employees made non verbal
6 threatening gestures to place plaintiff under arrest, by stalking plaintiff and by imprisoning plaintiff
7 in the ICU unit where plaintiff's ailing father was in critical condition defendants acted with
8 deliberate malice and reckless disregard where plaintiff was held against her will.

9 81. MountainView defendants also placed a call to 911 and falsely reported that plaintiff
10 was trespassing even though they were aware and had knowledge that she was on the premises and
11 did not attempt to contact the police prior to the altercation between plaintiff and plaintiff's brother.

12 82. That defendant security officers and defendant PIEPER contacted LVMPD in order
13 to attempt to arrest plaintiff and when the defendant officers from the LVMPD arrived at
14 MountainView they seized and arrested plaintiff and detained plaintiff and restrained her against
15 her will and over her protest, without any warrant of arrest or any process of any kind and without
16 any justification or cause to believe that plaintiff had committed any crime.

17 83. After defendant had seized and arrested plaintiff as herein alleged, defendants caused
18 plaintiff to be taken into custody and compelled to enter the police car and to be taken to jail and
19 imprisoned against her will for a period of approximately 17 hours.

20 84. That defendants personally swore to and caused to be filed in Municipal Court of
21 the City of Las Vegas, County of Clark, State of Nevada, a criminal complaint and made a part
22 hereof, against plaintiff, charging plaintiff with a violation of battery against defendant PIEPER.
23 The complaint, as sworn to and filed by the defendant, was wholly false. In fact, plaintiff had
24 committed no misdemeanor and no misdemeanor had actually been committed at all.

25 85. Defendant in causing the arrest and imprisonment of plaintiff as herein alleged, acted
26 with deliberate malice and oppression and without probable cause.

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1 86. As a proximate result of the acts of defendants herein alleged, plaintiff was
2 compelled to secure the services of an attorney at law to appear for arraignment and trial in the City
3 of Las Vegas, and by virtue thereof, plaintiff is indebted and liable for attorneys fees.

4 87. As a proximate result of the acts of defendants, and each of them, plaintiff was
5 injured in her health, strength, and activity, sustaining injury to her body and shock and injury to
6 her nervous system and person, and among others sustained severe emotional distress, all of which
7 injuries have caused plaintiff to suffer extreme and severe physical pain and mental anguish. These
8 injuries will likely result in some permanent disability to plaintiff all to her general damages in an
9 amount in excess of TEN THOUSAND DOLLARS (\$10,000).

10 88. As a direct and proximate result of defendants' unlawful conduct, plaintiff
11 experienced damages and is entitled to compensation for her emotional distress, medical expenses,
12 pain and suffering, and other related costs including but not limited to attorney fees, in excess of
13 TEN THOUSAND DOLLARS (\$10,000).

14 89. The conduct of the defendants and each of them individually and in concert with one
15 another as herein alleged was willful, wanton, intentional, oppressive, fraudulent, malicious and
16 done in a wanton and reckless disregard of plaintiff's rights and thereby warrant the imposition of
17 punitive damages in excess of TEN THOUSAND DOLLARS (\$10,000).

18 **EIGHTH CAUSE OF ACTION:**

19 **MALICIOUS PROSECUTION**

20 90. The plaintiff reaffirms, re-alleges and incorporates herein by reference, the
21 allegations contained in Paragraphs 1 through 89 of this Complaint as though fully set forth herein.

22 91. On or about April 17, 2008 in Clark County Nevada the defendants caused to be
23 filed a criminal complaint with the Las Vegas Municipal Court, Case number C0714069A, through
24 deputy district attorney Martin G. Orsinelli. The complaint accused plaintiff of the crime of battery
25 a misdemeanor. Plaintiff was arrested on March 21, 2008, detained in custody, charged by
26 information with committing that crime and the matter proceeded to trial.

27 92. Defendants acted without probable cause in initiating the prosecution of plaintiff in
28 that they did not honestly, reasonably, and in good faith believe plaintiff to be guilty of the crime

1 charge because defendant PIEPER did not see plaintiff hit or strike her and the altercation in the
2 room was between plaintiff and her brother.

3 93. Defendant PIEPER and defendant officers acted with malice in instigating the
4 criminal prosecution against plaintiff with an improper motive to annoy, harass and wrong plaintiff.

5 94. As a proximate result of the criminal prosecution initiated by defendants, plaintiff
6 has been damaged in an amount in excess of TEN THOUSAND DOLLARS (\$10,000).

7 95. As a further proximate result of the criminal prosecution so initiated by defendants,
8 plaintiff incurred costs and attorneys fees in an amount in excess of FIVE THOUSAND DOLLARS
9 (\$5,000) in defending against the prosecution.

10 96. Defendants' acts were willful, wanton, malicious, and oppressive in that defendant
11 PIEPER became upset with plaintiff for ordering defendant out of the plaintiff's father's room and
12 defendant ignoring the requests and smirking/smiling at plaintiff, knowing the critical condition of
13 plaintiff's father and observing her emotional distressed condition as a result of his condition and
14 PIEPER being present in the room, in defiance of the order to leave the room as ordered by the
15 medical providers and as posted on the ICU unit room of plaintiff's father's door.

16 97. That defendants conspired to falsely charge and accuse plaintiff of battery and to
17 maliciously prosecute plaintiff despite knowing that defendant Clark County and defendant PIEPER
18 would not be able to prove all of the elements of the criminal charge at the time of trial.

19 98. That defendants were unable to prove all of the elements at the time of trial and the
20 criminal case against plaintiff was dismissed.

21 99. That defendants conducting in prosecuting this case amounts to malicious
22 prosecution.

23 100. As a proximate result of the acts of defendants, and each of them, plaintiff was
24 injured in her health, strength, and activity, sustaining injury to her body and shock and injury to
25 her nervous system and person, and among others sustained severe emotional distress, all of which
26 injuries have caused plaintiff to suffer extreme and severe physical pain and mental anguish. These
27 injuries will likely result in some permanent disability to plaintiff all to her general damages in an
28 amount in excess of TEN THOUSAND DOLLARS (\$10,000).

1 101. As a direct and proximate result of defendants' unlawful conduct, plaintiff
2 experienced damages and is entitled to compensation for her emotional distress, medical expenses,
3 pain and suffering, and other related costs including but not limited to attorney fees, in excess of
4 TEN THOUSAND DOLLARS (\$10,000).

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff, reserving her right to amend this Complaint at the time of
7 trial, demands judgment against Defendants, and each of them, jointly and severally as follows:

8 AS TO THE FIRST CAUSE OF ACTION:

- 9 1. That defendants, be found liable for violating plaintiff's civil rights.
- 10 2. That plaintiff be awarded compensatory and general damages in excess of TEN
11 THOUSAND DOLLARS (\$10,000);
- 12 3. That defendants actions were done deliberately, wilfully and maliciously and
13 therefore, plaintiff is entitled to punitive damages in an amount to be proven at trial against
14 defendants, and defendants individually in excess of TEN THOUSAND DOLLARS (\$10,000).
- 15 4. For attorney's fees and costs;
- 16 5. For prejudgment interest; and
- 17 6. For such other and further relief as the Court deems just and proper in this matter.

18 AS TO THE SECOND CAUSE OF ACTION:

- 19 7. That defendants, be found liable to plaintiff for Assault and Battery.
- 20 8. That plaintiff be awarded compensatory and general damages in excess of TEN
21 THOUSAND DOLLARS (\$10,000);
- 22 9. That defendants actions were done deliberately, wilfully and maliciously and
23 therefore, plaintiff is entitled to punitive damages in an amount to be proven at trial against
24 defendants, and defendants individually in excess of TEN THOUSAND DOLLARS (\$10,000).
- 25 10. For attorney's fees and costs;
- 26 11. For prejudgment interest; and
- 27 12. For such other and further relief as the Court deems just and proper in this matter.

28 AS TO THE THIRD CAUSE OF ACTION:

1 13. That defendants be found liable to plaintiff for Negligent and Intentional Infliction
2 of Emotional Distress;

3 14. That plaintiff be awarded compensatory and general damages in excess of TEN
4 THOUSAND DOLLARS (\$10,000);

5 15. That defendants actions were done deliberately, wilfully and maliciously and
6 therefore, plaintiff is entitled to punitive damages in an amount to be proven at trial against
7 defendants, and defendants individually in excess of TEN THOUSAND DOLLARS (\$10,000).

8 16. For attorney's fees and costs;

9 17. For prejudgment interest; and

10 18. For such other and further relief as the Court deems just and proper in this matter.

11 AS TO THE FOURTH CAUSE OF ACTION:

12 19. That Defendants be found liable to Plaintiffs for **CIVIL CONSPIRACY**;

13 20. That plaintiff be awarded compensatory and general damages in excess of TEN
14 THOUSAND DOLLARS (\$10,000);

15 21. That defendants actions were done deliberately, wilfully and maliciously and
16 therefore, plaintiff is entitled to punitive damages in an amount to be proven at trial against
17 defendants, and defendants individually in excess of TEN THOUSAND DOLLARS (\$10,000).

18 22. For attorney's fees and costs;

19 23. For prejudgment interest; and

20 24. For such other and further relief as the Court deems just and proper in this matter.

21 AS TO THE FIFTH CAUSE OF ACTION:

22 25. That Defendant MountainView, Clark County and LVMPD be found liable to
23 plaintiff for Respondent Superior, for the acts of their agents, employees, officers who were acting
24 within the course and scope of their employment with their respective codefendant;

25 26. That plaintiff be awarded compensatory and general damages in excess of TEN
26 THOUSAND DOLLARS (\$10,000);

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1 27. That defendants actions were done deliberately, wilfully and maliciously and
2 therefore, plaintiff is entitled to punitive damages in an amount to be proven at trial against
3 defendants, and defendants individually in excess of TEN THOUSAND DOLLARS (\$10,000).

4 28. For attorney's fees and costs;

5 29. For prejudgment interest; and

6 30. For such other and further relief as the Court deems just and proper in this matter.

7 AS TO THE SIXTH CAUSE OF ACTION:

8 31. That defendants be found liable to plaintiff for Negligence, Negligent Hiring,
9 Training and Supervision;

10 32. That plaintiff be awarded compensatory and general damages in excess of TEN
11 THOUSAND DOLLARS (\$10,000);

12 33. That defendants actions were done deliberately, wilfully and maliciously and
13 therefore, plaintiff is entitled to punitive damages in an amount to be proven at trial against
14 defendants, and defendants individually in excess of TEN THOUSAND DOLLARS (\$10,000).

15 34. For attorney's fees and costs;

16 35. For prejudgment interest; and

17 36. For such other and further relief as the Court deems just and proper in this matter.

18 AS TO THE SEVENTH CAUSE OF ACTION:

19 37. That defendants be found liable to plaintiff for unlawful arrest and false
20 imprisonment;

21 38. That plaintiff be awarded compensatory and general damages in excess of TEN
22 THOUSAND DOLLARS (\$10,000);

23 39. That defendants actions were done deliberately, wilfully and maliciously and
24 therefore, plaintiff is entitled to punitive damages in an amount to be proven at trial against
25 defendants, and defendants individually in excess of TEN THOUSAND DOLLARS (\$10,000).

26 40. For attorney's fees and costs;

27 41. For prejudgment interest; and

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1 42. For such other and further relief as the Court deems just and proper in this matter.
2 AS TO THE EIGHTH CAUSE OF ACTION:

3 43. That defendants be found personally liable for the malicious prosecution of plaintiff.

4 44. That plaintiff be awarded compensatory and general damages in excess of TEN
5 THOUSAND DOLLARS (\$10,000);

6 45. That defendants actions were done deliberately, wilfully and maliciously and
7 therefore, plaintiff is entitled to punitive damages in an amount to be proven at trial against
8 defendants, and defendants individually in excess of TEN THOUSAND DOLLARS (\$10,000).


9 46. For attorney's fees and costs;

10 47. For prejudgment interest; and

11 48. For such other and further relief as the Court deems just and proper in this matter.

12 DATED this 1 day of May, 2010.

POTTER LAW OFFICES

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14
15 By 
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